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U.S. Spy Prosecutions on the Upswing

Highest Number Ever to Await Trial—12—Traced to Policy Shift in Mid-1970s

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If the FBI 16 years ago had discovered the alleged Walker spy ring—or the CIA secretary and her Ghanaian boyfriend charged as spies yesterday—the arrests might never have been made, and the public never would have heard about the cases, intelligence specialists said.

In the Vietnam era of the late 1960s and early 1970s, the Justice Department almost completely stopped prosecuting American spies. Instead, officials would squeeze suspected spies out of their jobs quietly, seek to turn them into double agents or use them in other ways against their foreign controllers, the experts said. Some military spies in that period were court-martialed, with little fanfare, rather than tried in civilian courts.

From 1966 to 1975, the Justice Department obtained indictments against only two persons for espionage-related crimes, according to federal agencies' records, whereas from 1976 to the present, it has obtained indictments against 37 persons, not including yesterday's arrest of CIA employee Sharon M. Scrannage and her boyfriend, Michael A. Soussooudis.

A decision in the middle 1970s to resume spy prosecutions, spearheaded by Attorney General Griffin B. Bell and continued by the Reagan administration, has helped cause a ballooning in spy prosecutions in recent years.

Leading up to the spy case announced by the FBI yesterday, there was discussion among federal officials about whether to prosecute Soussooudis, because he is a foreign national and it was thought that prosecution could anger Ghanaian officials, sources said. But government officials apparently decided to "take the diplomatic hit" and prosecute, a source said.

Federal prosecutors have a perfect record in espionage prosecutions, getting guilty pleas or convictions on all such cases since World War II, barring extraordinary cases, such as those in which defendants were found to be incompetent to stand trial or were swapped for other persons from the Communist bloc, Justice officials said.

Never before have so many persons been awaiting trial in the United States for espionage as there are now: 12.

Besides the four in the Walker spy case, among those awaiting trial is Richard Craig Smith, the former Army counterintelligence specialist who is charged with accepting \$11,000 from the Soviets in exchange for the identities of six American double agents, supposed Soviet spies who were actually working for the United States.

Also awaiting trial is Richard W. Miller, the first FBI agent charged with espionage. Two weeks ago, two Soviet emigres, Svetlana and Nikolai Ogorodnikov, pleaded guilty to conspiring with Miller to pass secret documents to the Soviets.

Foreign diplomats cannot be prosecuted for spying because of diplomatic immunity, and it is difficult to know how many of them have been discovered spying because many such cases are handled quietly. Federal agencies, including the State Department and the FBI, said they do not have comparative annual statistics on the number of Soviet bloc diplomats declared *persona non grata* for espionage and kicked out of the United States. Few nondiplomatic Soviet bloc officials or other representatives were prosecuted on espionage-related charges in the 1960s, but a number of them have been indicted on such charges in the last 10 years.

An examination of the shifting politics of espionage prosecution—based on interviews with former government officials and intelligence specialists and the memoirs of Bell and former CIA Director Stansfield Turner—shows there is not always unanimity among policy-makers about prosecuting spies in criminal court.

Justice Department prosecutors often clash over spy prosecutions with representatives of the CIA and the Pentagon, who generally prefer to guard national secrets rather than risk exposing them in a public trial. In addition, intelligence officials often prefer leaving suspected spies in place to try to "double" them into spying for the United States, or otherwise help to discredit the opposing intelligence agency.

"It's an unending debate, and it's going on in every espionage case," said Kenneth Bass, the Justice Department's counsel for intelligence policy in the Carter administration. "Many intelligence people say, 'It's better to let [spies] stay in place. At least we know where they are.' Their view is that intelligence is like prostitution: It isn't going to go away because you prosecute."

While many intelligence officials believe that prosecuting spies is desirable because it serves to educate the public and act as a deterrent, others believe that prosecuting

wastes opportunities to use spies to the advantage of the United States. Engaging unmasked spies in often complex counterintelligence operations is a valuable tactic that keeps foreign spy agencies on guard, former U.S. intelligence officials said.

In addition to "doubling," intelligence operatives can choose to leave the suspected spies in position and restrict information to them, or feed them false information that sheds doubt on what they had pre-

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